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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,113	07/21/2003	Kenneth A. Shaw	29968/38059A	6130

4743 7590 04/11/2006

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EXAMINER

LAVINDER, JACK W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/624,113	Applicant(s) SHAW ET AL.	
	Examiner Jack W. Lavinder	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-48 and 51-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 61 and 62 is/are allowed.
- 6) ☒ Claim(s) 44-46, 52-56, 59, 60 and 63 is/are rejected.
- 7) ☒ Claim(s) 47, 48, 51, 57 and 58 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 45-46 and 63 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification fails to disclose "flexible arms that are normally biased away from one another". The specification states that the flexible arms have a normal biased position, which could mean that there is no biasing of the arms either away or toward one another or it could mean that the arms are biased toward one another. In either case, the disclosure doesn't support the newly added limitation of the arms being biased away from one another.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 55 and 59 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 55, there is no antecedence for "the front wall." Is this front wall defined by a side of the body or a wall on the guidepost or tine?

Regarding claim 59, it is not clear whether the clip or the clip and the roller trays and the divider bar are being claimed. For examination purposes, it has been assumed that the claim is directed to the subcombination, i.e., the clip only.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 44, 52-56, 59 and 60 have been rejected under 35 U.S.C. 102(b) as being anticipated by Gieling, 5144780.

Regarding claims 44 and 52, these claims are directed to a clip for use with a plurality of roller trays. Therefore, the claimed use of the clip is met by Gieling. Gieling's device has the capability of being used in the claimed manner.

Gieling discloses a clip (figure 2) having protruding tines (61, 63) flanking a guide post (33), wherein the guidepost is longer than each tine. The clip also has a slot defined by walls/ribs 43 extending generally perpendicularly to the guidepost, i.e., extending upwardly and downwardly (bottom slots) as seen in figure 3. The slot is capable of and is configured to engage a divider bar. The clip also has a thickness (d, figure 3) defined by the center flange (31).

Regarding claim 53, Gieling discloses a body (33) with a slot (defined by walls 43) located on the topside of the body, a guidepost (55, as seen in figure 2) extending out from the sides via the tine (53, as seen in figure 2), and wherein the guidepost and tine are disposed at an angle from the first axis. The guidepost extends at a right angle from the first axis and the tine is angled outwardly from the body.

Regarding claim 54, Gieling discloses a clip having two slots (43, 71) capable of engaging a divider bar.

Regarding claim 55, it has been assumed that the front wall is a side of the body. Gieling discloses a partial slot extending through the front wall, i.e., from top to bottom.

Regarding claim 56, Gieling discloses a second tine (61) extending from each lateral side via element 31. The first tine (53) and the second tine flank the guideposts (55, 57).

Regarding claim 59, a second interpretation of Gieling is used to meet the limitation of the guidepost (55) and first tine (31) extending generally perpendicularly from the longitudinal axis (x, figure 3) of Gieling's clip. In this interpretation, the first tine is defined by element 31.

Regarding claim 60, Gieling's clip has a thickness perpendicular to the x-axis (figure 3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gieling in view of Sasajima, 4867599.

Gieling discloses a knob that extends through the aperture, but fails to disclose flexible arms extending from the top of the knob/tine. Sasajims discloses a tine (11) having flexible arms extending from the center of the top portion of the tine (15). It would have been obvious to a person having ordinary skill in the art to provide the flexible arms in Gieling's device in order to improve the securement between the tines and the support. This would prevent unwanted accidental disengagement between the tine and the support.

Allowable Subject Matter

9. Claims 61 and 62 have been allowed.
10. Claims 47-48, 51, 57 and 58 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 9/13/05 have been fully considered but they are not persuasive.

The applicant argues

Gieling discloses a coupling 27 with a butt plate 29 and stems 33 extending out from both sides of the butt plate 29. The stems 33 include slots 43 extending in parallel with the stems 33. Here, the stems 33 are analogous to the guide posts of claim 44. Gieling fails to disclose any slots that extend generally perpendicular to the stems 33. Accordingly, claim 44 is not anticipated by Gieling.

The claim requires that the slot be perpendicular to the guidepost. Gieling's slots (43) extend in a perpendicular direction, i.e., top to bottom, which is perpendicular to the longitudinal axis (x) of the guidepost.

The applicant argues

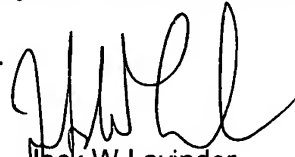
Further, the specification teaches away from a slot in the butt plate 29. The specification states, "Coupling 27 comprises a narrow butt plate 29 that is defined by outer margins 31 that extend to outer post surface 2 to provide a *smooth overall contour*." Gieling, C3:L68-C4:L3 (emphasis added). Accordingly, the purpose of the butt plate 29 is to provide a smooth surface transitioning across the tubes 1 that are connected by the coupling 27. There is therefore no teaching or suggestion for a slot in the butt plate 29 generally perpendicular to the stems 33.

This argument is moot because claim 44 does not require that the slot be in a butt plate. The claim only requires a slot extending generally perpendicularly to the guidepost, which, as describe in the previous paragraph, is disclosed by Gieling.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W Lavinder
Primary Examiner
Art Unit 3677

4/6/06